

**DEPARTMENT OF HOMELAND
SECURITY**
Coast Guard
33 CFR Part 117
[CGD01-04-096]
RIN 1625-AA09
**Drawbridge Operation Regulations;
Annisquam River, Danvers River, Fore
River, and Saugus River, MA**
AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the drawbridge operating regulations governing the operation of four Massachusetts Highway Department bridges; the Blynman (SR127) Bridge, mile 0.0, across the Annisquam River; the Kernwood Bridge, mile 1.0, across the Danvers River; the Quincy Weymouth SR3A Bridge, mile 2.8, across the Fore River; and the Fox Hill (SR107) Bridge, mile 2.5, across the Saugus River, Massachusetts. The bridge owner requested that the four bridges may operate on an advance notice basis from noon to 6 p.m. on Thanksgiving Day each year. This action is expected to allow the draw tenders to spend the holiday with their families while still meeting the reasonable needs of navigation.

DATES: Comments must reach the Coast Guard on or before October 1, 2004.

ADDRESSES: You may mail comments to Commander (obr), First Coast Guard District Bridge Branch, One South Street, Battery Park Building, New York, New York 10004, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (212) 668-7165. The First Coast Guard District, Bridge Branch, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Kassof, Bridge Administrator, First Coast Guard District, (212) 668-7165.

SUPPLEMENTARY INFORMATION:
Request for Comments

We encourage you to participate in this rulemaking by submitting comments or related material. If you do

so, please include your name and address, identify the docket number for this rulemaking (CGD01-04-096), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the First Coast Guard District, Bridge Branch, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose
Annisquam River and Blynman Canal

The Blynman (SR127) Bridge, mile 0.0, across the Annisquam River has a vertical clearance of 7 feet at mean high water and 16 feet at mean low water in the closed position. The existing operating regulations are listed at 33 CFR 117.586.

Danvers River

The Kernwood Bridge, at mile 1.0, across the Danvers River has a vertical clearance of 8 feet at mean high water and 17 feet at mean low water in the closed position. The existing operating regulations are listed at 33 CFR § 117.595(c).

Fore River

The Quincy Weymouth (SR3A) Bridge, at mile 2.8, across the Fore River has a vertical clearance of 45 feet at mean high water and 55 feet at mean low water in the closed position. The existing operating regulations are listed at 33 CFR § 117.621.

Saugus River

The Fox Hill (SR107) Bridge, at mile 2.5, across the Saugus River has a vertical clearance of 6 feet at mean high water and 16 feet at mean low water in the closed position. The existing operating regulations are listed at 33 CFR § 117.618(c).

The owner of the bridges, Massachusetts Highway Department (MHD), requested a change to the

drawbridge operation regulations for the above four bridges to allow the bridges to operate on an advance notice basis on Thanksgiving Day each year.

The existing drawbridge operation regulations already allow the four bridges to operate on an advance notice basis on Christmas and New Years Day each year. Therefore, it is expected that adding Thanksgiving Day to that existing requirement should not impact navigation adversely since there have been very few requests to open these bridges on Thanksgiving Day in past years.

The Coast Guard believes this rule is reasonable because the bridges would still open on demand at any time on Thanksgiving Day after the advance notice is given.

Discussion of Proposed Rule
Annisquam River and Blynman Canal

This proposed rule would revise 33 CFR 117.586, which details the operating regulations for the Blynman (SR127) Bridge. This proposed rule would allow the bridge owner to require a two-hour advance notice for bridge openings on Thanksgiving Day from noon to 6 p.m. each year.

Danvers River

This proposed rule amends 33 CFR 117.595 by revising paragraph (c), which details the operating regulations for the Kernwood Bridge.

This proposed rule would allow the bridge owner to require a one-hour advance notice for bridge openings from noon to 6 p.m. on Thanksgiving Day each year.

Fore River

This proposed rule amends 33 CFR 117.621 by revising paragraph (c), which details the holiday operating regulations for the Quincy Weymouth SR3A Bridge.

This proposed rule would allow the bridge owner to require a two-hour advance notice for bridge openings from noon to 6 p.m. on Thanksgiving Day each year.

Saugus River

This proposed rule amends 33 CFR 117.618 by revising paragraph (c), which details the operating regulations for the Fox Hill SR107 Bridge. This proposed rule would allow the bridge owner to require a one-hour advance notice for bridge openings from noon to 6 p.m. on Thanksgiving Day each year.

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866,

Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation, under the regulatory policies and procedures of DHS, is unnecessary.

This conclusion is based on the fact that the bridges will continue to open on signal at any time after the advance notice is given.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under section 5 U.S.C. 605(b), that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This conclusion is based on the fact that the bridges will continue to open on signal at any time after the advance notice is given.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact us in writing at, Commander (obr), First Coast Guard District, Bridge Branch, 408 Atlantic Avenue, Boston, MA 02110–3350. The telephone number is (617) 223–8364. The Coast Guard will not retaliate

against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments,

because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environment documentation because it has been determined that the promulgation of operating regulations or procedures for drawbridges are categorically excluded.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Revise § 117.586 to read as follows:

§ 117.586 Annisquam River and Blynman Canal.

The draw of the Blynman (SR127) Bridge shall open on signal, except that, from noon to 6 p.m. on the fourth Thursday in November (Thanksgiving Day), 6 p.m. on December 24 to midnight on December 25, and from 6 p.m. on December 31 to midnight on January 1, the draw shall open on signal if at least a two-hour advance notice is given by calling the number posted at the bridge.

3. Section 117.595 is amended by revising paragraph (c) to read as follows:

§ 117.595 Danvers River.

* * * * *

(c) The Kernwood Bridge, at mile 1.0, shall operate as follows:

(1) From May 1 through September 30, midnight to 5 a.m., and from October 1 through April 30, 7 p.m. to 5 a.m., draw shall open on signal after at least a one-hour advance notice is given by calling the number posted at the bridge.

(2) From noon to 6 p.m. on the fourth Thursday in November (Thanksgiving Day) and all day on December 25 and January 1, the draw shall open on signal after at least a one-hour advance notice is given by calling the number posted at the bridge.

4. Section 117.618 is amended by revising paragraph (c) to read as follows:

§ 117.618 Saugus River.

* * * * *

(c) The Fox Hill (SR107) Bridge, at mile 2.5, shall operate as follows:

(1) The draw shall open on signal, except that, from October 1 through May 31, from 7 p.m. to 5 a.m., the draw shall open after at least a one-hour advance notice is given by calling the number posted at the bridge.

(2) From noon to 6 p.m. on the fourth Thursday in November (Thanksgiving

Day), and all day on December 25, and January 1, the draw shall open on signal after at least a one-hour advance notice is given by calling the number posted at the bridge.

5. Section 117.621 is amended by revising paragraph (c) to read as follows:

§ 117.621 Fore River.

* * * * *

(c) From noon to 6 p.m. on the fourth Thursday in November (Thanksgiving Day), from 6 p.m. on December 24 to midnight on December 25, and from 6 p.m. on December 31 to midnight on January 1, the draw shall open on signal after at least a two-hour advance notice is given by calling the number posted at the bridge.

Dated: August 23, 2004.

David P. Pekoske,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 04–19958 Filed 8–31–04; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 51**

[OAR–2003–0079; FRL–7802–1]

RIN 2060–AJ99

Draft Nitrogen Oxides Exemption Guidance for Proposed Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) has developed draft guidance for Nitrogen Oxides (NO_x) Exemptions under the 8-hour ozone standard to accompany the proposed rule to implement the 8-hour ozone National Ambient Air Quality Standard (NAAQS), which was published on June 2, 2003 (68 FR 32802). If, after notice and comment, we adopt approaches other than those reflected by the draft guidance, the regulatory text we promulgate at the time of our final action will incorporate the approaches we adopt.

DATES: Comments must be received on or before October 1, 2004.

ADDRESSES: Comments may be submitted electronically, by mail, by facsimile, or through hand delivery/courier. Follow the detailed instructions as provided in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Mr. Doug Grano, Office of Air Quality Planning and Standards, U.S.

Environmental Protection Agency, Mail Code C539–02, Research Triangle Park, NC 27711, phone number (919) 541–3292 or by e-mail at:

grano.doug@epa.gov or Ms. Denise Gerth, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C539–02, Research Triangle Park, NC 27711, phone number (919) 541–5550 or by e-mail at *gerth.denise@epa.gov*.

SUPPLEMENTARY INFORMATION:**I. General Information**

The draft guidance for NO_x Exemptions under the 8-hour ozone standard is intended to accompany the June 2, 2003 proposed rule to implement the 8-hour ozone NAAQS. The draft guidance describes, in detail, how to implement the NO_x exemption provisions contained in section 182(f) of the Clean Air Act and EPA's rationale. The June 2, 2003 proposed rule contains the background discussion for the section 182(f) provisions.

A. How Can I Get Copies of This Document and Other Related Information?

The EPA has established an official public docket for this action under Docket ID No. OAR 2003–0079. Documents in the official public docket are listed in the index list in EPA's electronic public docket and comment system, EDOCKET. Documents may be available either electronically or in hard copy. Electronic documents may be viewed through EDOCKET. Hard copy documents may be viewed at the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OAR 2003–0079 Docket is (202) 566–1742.

An electronic version of the public docket is available through EDOCKET. You may use EDOCKET at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket identification number.

Certain types of information will not be placed in the EDOCKET. Information claimed as confidential business